

***** PUBLIC DOCKET *****

**U.S. District Court
Southern District of Indiana (Terre Haute)
CIVIL DOCKET FOR CASE #: 2:20-cv-00298-JMS-MG**

JERVIS v. WEXFORD HEALTH SOURCE, INC. et al
Assigned to: Judge Jane Magnus-Stinson
Referred to: Magistrate Judge Mario Garcia
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 06/10/2020
Jury Demand: Both
Nature of Suit: 555 Prisoner Petitions -
Prison Condition
Jurisdiction: Federal Question

Plaintiff

MARK M. JERVIS

represented by **MARK M. JERVIS**
952861
PUTNAMVILLE - CF
PUTNAMVILLE CORRECTIONAL
FACILITY
Inmate Mail/Parcels
1946 West U.S. Hwy 40
Greencastle, IN 46135
PRO SE

V.

Defendant

WEXFORD OF INDIANA, LLC

represented by **Douglass R. Bitner**
KATZ KORIN CUNNINGHAM, P.C.
The Emelie Building
334 North Senate Avenue
Indianapolis, IN 46204
317-464-1100
Fax: 317-464-1111
Email: dbitner@kkclegal.com
ATTORNEY TO BE NOTICED

Sarah Jean Shores
KATZ KORIN CUNNINGHAM, P.C.
The Emelie Building
334 North Senate Avenue
Indianapolis, IN 46204
317-464-1100
Fax: 317-464-1111
Email: sshores@kkclegal.com
ATTORNEY TO BE NOTICED

Defendant

SAMUEL J. BYRD
Dr.

represented by **Douglass R. Bitner**
(See above for address)
ATTORNEY TO BE NOTICED

Sarah Jean Shores
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/10/2020	<u>1</u>	COMPLAINT against SAMUEL J. BYRD, and WEXFORD HEALTH SOURCE, INC., filed by MARK M. JERVIS. (No fee paid with this filing) (DJH) (Entered: 06/10/2020)
06/10/2020	<u>2</u>	MOTION for Leave to Proceed in forma pauperis filed by Plaintiff, MARK M. JERVIS. (Attachments: # <u>1</u> Transaction History)(DJH) (Entered: 06/10/2020)
06/10/2020	<u>3</u>	CONSENT to Prisoner E-Service by MARK M. JERVIS located at WVCF. Pursuant to General Order 2013-1, documents submitted by MARK M. JERVIS to the court for filing will generate a Notice of Electronic Filing that will constitute official service upon registered users of CM/ECF. If any parties to the case are not registered CM/ECF users, the Clerk of the Court will mail the document via U.S. Postal Service on behalf of the inmate. NOTE: The E-Filing Program does not affect the obligation of other parties to serve copies of documents in accordance with the Federal Rules of Civil Procedure. (AAS) (Entered: 06/10/2020)
06/10/2020	<u>4</u>	MOTION to Appoint Counsel filed by Plaintiff, MARK M. JERVIS. (DJH) (Entered: 06/10/2020)
06/10/2020	<u>5</u>	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (DJH) (Entered: 06/10/2020)
06/11/2020	<u>6</u>	NOTICE to Pro se Litigant - The following information is provided to pro se litigants to inform them about rules and procedures governing how they communicate with the Court. (TMC) (Entered: 06/11/2020)
06/17/2020	<u>7</u>	ORDER denying <u>2</u> Motion for Leave to Proceed in forma pauperis - The plaintiff's inmate trust account certification reflects that he has sufficient funds to pay the \$400.00 filing fee for this action. The petitioner shall have through July 15, 2020, in which to pay the Four Hundred Dollar filing fee to the clerk of the court. Signed by Judge Jane Magnus-Stinson on 6/17/2020. (KAA) (Entered: 06/17/2020)
06/26/2020	8	RECEIPT #IP069770 for civil filing fee in the amount of \$400.00, paid by Plaintiff. (REO) (Entered: 06/26/2020)
08/25/2020	<u>9</u>	ENTRY SCREENING COMPLAINT AND DIRECTING ISSUANCE OF PROCESS - If Mr. Jervis believes he asserted additional claims not discussed

		by the Court, he shall have through September 18, 2020, to notify the Court. The clerk is directed to change Wexford's name on the docket from Wexford Health Sources, Inc., to Wexford of Indiana, LLC. The clerk is directed pursuant to Federal Rule of Civil Procedure 4(c)(3) to issue process to the defendants, (1) Dr. Samuel Byrd and (2) Wexford of Indiana, LLC, in the manner specified by Rule 4(d). The clerk is directed to serve Wexford electronically. Dr. Byrd is identified as a Wexford employee. In the event he does not waive service, Wexford is ORDERED to provide his full name and last known address if it has such information. This information may be provided to the Court informally or may be filed ex parte. SEE ORDER. Distributed pursuant to distribution list. Signed by Judge Jane Magnus-Stinson on 8/25/2020.(KAA) (Entered: 08/25/2020)
08/25/2020	10	NOTICE of Lawsuit & Waiver Issued by Clerk upon: (1) Dr. Samuel Byrd and (2) Wexford of Indiana, LLC. (KAA) (Entered: 08/25/2020)
08/25/2020	11	Documents to be Sent via Electronic Notice - re 10 NOTICE of Lawsuit & Waiver Issued by Clerk, 9 Entry, 1 Complaint Electronic Notice to Wexford. Electronic service to Wexford of Indiana, LLC. (KAA) (Entered: 08/25/2020)
09/04/2020	12	NOTICE of Appearance by Jarod Zimmerman on behalf of Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC. (Zimmerman, Jarod) (Entered: 09/04/2020)
09/04/2020	13	WAIVER OF SERVICE Returned Executed, filed by WEXFORD OF INDIANA, LLC. WEXFORD OF INDIANA, LLC waiver sent on 8/25/2020. (Zimmerman, Jarod) (Entered: 09/04/2020)
09/04/2020	14	WAIVER OF SERVICE Returned Executed, filed by SAMUEL J. BYRD. SAMUEL J. BYRD waiver sent on 8/25/2020. (Zimmerman, Jarod) (Entered: 09/04/2020)
09/04/2020	15	NOTICE of Appearance by Douglass R. Bitner on behalf of Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC. (Bitner, Douglass) (Entered: 09/04/2020)
09/28/2020	16	Corporate Disclosure Statement by WEXFORD OF INDIANA, LLC identifying Corporate Parent THE BANTRY GROUP CORPORATION for WEXFORD OF INDIANA, LLC.. (Zimmerman, Jarod) (Entered: 09/28/2020)
09/28/2020	17	MOTION to Cease and Desist, filed by Plaintiff MARK M. JERVIS. (Attachments: # 1 Exhibit)(JRB) (Entered: 09/28/2020)
10/12/2020	18	RESPONSE in Opposition re 17 MOTION <i>MEDICAL DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION</i> , filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC. (Zimmerman, Jarod) (Entered: 10/12/2020)
10/26/2020	19	ANSWER to Complaint , <i>JURY DEMAND AND AFFIRMATIVE DEFENSES</i> , filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC. (Zimmerman, Jarod) Modified on 10/27/2020 (KAA). (Entered: 10/26/2020)

10/28/2020	20	ORDER SETTING PRETRIAL SCHEDULE AND DISCUSSING DISCOVERY IN PRISONER LITIGATION: This Order sets the schedule for how this action shall proceed. Part I sets forth the pretrial deadlines. Part II discusses various aspects of discovery. Facilitating the discovery process can be difficult, and this Order is issued in an effort to help explain and streamline the process for the parties. The parties should carefully read this Order. *SEE ORDER FOR ADDITIONAL INFORMATION*. Dispositive Motions due by 9/7/2021. Discovery due by 8/6/2021. Signed by Magistrate Judge Mark J. Dinsmore on 10/28/2020.(KAA) (Entered: 10/29/2020)
11/06/2020	21	MOTION for Recruitment of Counsel, filed by Plaintiff MARK M. JERVIS. (JRB) (Entered: 11/06/2020)
11/09/2020	22	ORDER DENYING AS UNNECESSARY MOTION TO CEASE AND DESIST AND DENYING WITHOUT PREJUDICE MOTIONS FOR RECRUITMENT OF COUNSEL - Mark Jervis's motion to cease and desist, dkt. 17 , is denied as unnecessary. Mr. Jervis's motions for recruitment of counsel, dkt. 4 and 21 , are denied without prejudice. The clerk is directed to send the plaintiff a motion for assistance recruiting counsel form with his copy of this Order. SEE ORDER. Signed by Judge Jane Magnus-Stinson on 11/9/2020. (Attachments: # 1 Motion for Counsel Form) (KAA) (Entered: 11/09/2020)
11/18/2020	23	MOTION Requesting Forms, filed by Plaintiff MARK M. JERVIS. (AAS) (Entered: 11/18/2020)
11/20/2020	24	ORDER GRANTING REQUEST FOR FORM - Mark Jervis's request for form motion, dkt. 23 , is GRANTED. The Clerk is directed to include a form motion for assistance with recruiting counsel with Mr. Jervis's copy of this Order. Signed by Magistrate Judge Mark J. Dinsmore on 11/20/2020. (Attachments: # 1 form motion) (RSF) (Entered: 11/23/2020)
12/09/2020	25	MOTION to Appoint Counsel, filed by Plaintiff MARK M. JERVIS. (AAS) (Entered: 12/09/2020)
02/16/2021	26	NOTICE of Substitution of Appearance by Sarah Jean Shores replacing <i>Jarod M. Zimmerman</i> on behalf of SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC (Shores, Sarah) (Entered: 02/16/2021)
02/23/2021	27	MOTION for Status of Case, filed by Plaintiff MARK M. JERVIS. (AAS) (Entered: 02/23/2021)
03/01/2021	28	Correspondence REQUESTING COPY of Case Document(s) re 20 Order Setting Pretrial Schedule and Discussing Discovery in Prisoner Litigation, filed by Mark Jervis. (Attachments: # 1 Dkt. 20) (AAS) (Entered: 03/01/2021)
03/08/2021	29	ENTRY DENYING WITHOUT PREJUDICE MOTION FOR ASSISTANCE WITH RECRUITING COUNSEL - The Court finds that Mr. Jervis is capable of litigating this action independently through the summary judgment phase. Mr. Jervis's motion for assistance with recruiting counsel, dkt. 25 , is denied without prejudice. Mr. Jervis's motion for information on the status of his case,

		<p> 27 , is granted with the issuance of this Entry. SEE ORDER. Signed by Judge Jane Magnus-Stinson on 3/8/2021. (KAA) (Entered: 03/08/2021) </p>
03/10/2021	30	<p> MOTION to Appoint Medical Expert, filed by Plaintiff MARK M. JERVIS. (AAS) (Entered: 03/10/2021) </p>
03/16/2021	31	<p> MOTION for Telephonic Conference, filed by Plaintiff MARK M. JERVIS. (Attachments: # 1 Declaration in Support)(AAS) (Entered: 03/16/2021) </p>
04/05/2021	32	<p> Reassignment of Case to Magistrate Judge Mario Garcia. Magistrate Judge Mark J. Dinsmore is no longer assigned to this case. Please include the new case number (2:20-cv-298-JMS-MG), which includes the initials of the newly assigned judge, on all future filings in this matter. (JD) (Entered: 04/05/2021) </p>
04/06/2021	33	<p> Emergency MOTION for a Court Order to Cease and Desist, filed by Plaintiff MARK M. JERVIS. (AAS) (Entered: 04/06/2021) </p>
04/09/2021	34	<p> NOTICE of Service of Expert Disclosures, filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC (Shores, Sarah) (Entered: 04/09/2021) </p>
04/09/2021	35	<p> SCHEDULING ORDER - The plaintiff's motion requesting a telephonic conference, 31 , is granted. This matter is set for a telephonic status conference on Tuesday, April 13, 2021, at 1:00 P.M. (Eastern). The information needed by counsel to participate in this telephonic conference will be provided by a separate CM/ECF notification. See Order for Details. Signed by Magistrate Judge Mario Garcia on 4/9/2021.(NAD) (Entered: 04/09/2021) </p>
04/09/2021	37	<p> ORDER to Make Inmate Available - via Telephone. Warden of WABASH VALLEY CORRECTIONAL FACILIY ordered to make MARK M. JERVIS Available - via Telephone for court proceeding on 4/13/2021. Signed by Magistrate Judge Mario Garcia on 4/9/2021.(NAD) (Entered: 04/09/2021) </p>
04/12/2021	38	<p> NOTICE of Compliance, filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC, re 35 Order on MotionScheduling. (Attachments: # 1 Exhibit A, Medical Records Pt 1) (Shores, Sarah) (Entered: 04/12/2021) </p>
04/12/2021	39	<p> EXHIBIT re 35 Order on MotionScheduling, 38 Notice (Other) by SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC. (Attachments: # 1 Exhibit A, Part 3 of Medical Records)(Shores, Sarah) (Entered: 04/12/2021) </p>
04/13/2021	40	<p> MINUTE ORDER for proceedings held before Magistrate Judge Mario Garcia: Status Conference held on 4/13/2021. This matter came before the Court for a telephonic status conference on April 13, 2021. Plaintiff Mark Jervis appeared pro se, and Sarah Shores appeared on behalf of the defendants. The Court and the parties discussed Mr. Jervis's current medical condition and anticipated treatment. (See Order for deadlines.) Signed by Magistrate Judge Mario Garcia. (NAD) (Entered: 04/13/2021) </p>
04/14/2021	41	<p> MOTION to Preserve and Provide Evidence, filed by Plaintiff MARK M. JERVIS. (AAS) (Entered: 04/14/2021) </p>
04/19/2021	42	<p> MOTION for Order Regarding Hearing, filed by Plaintiff MARK M. JERVIS. </p>

		(AAS) (Entered: 04/19/2021)
04/20/2021	43	NOTICE of Compliance with Court Order, filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC, re 40 Status Conference. (Attachments: # 1 Exhibit A - Medical Records (Redacted)) (Shores, Sarah) (Entered: 04/20/2021)
04/20/2021	44	MOTION to Take Deposition from Mark M. Jervis , filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC. (Attachments: # 1 Notice of Deposition, # 2 Text of Proposed Order)(Shores, Sarah) (Entered: 04/20/2021)
04/20/2021	45	REQUEST for Production of Documents, filed by Plaintiff MARK M. JERVIS. (AAS) (Entered: 04/20/2021)
04/20/2021	46	First Set of Interrogatories, filed by Plaintiff MARK M. JERVIS.(AAS) (Entered: 04/20/2021)
04/23/2021	47	ORDER GRANTING DEFENDANTS' MOTION FOR LEAVE TO TAKE DEPOSITION OF PLAINTIFF - granting 44 Motion to Take Deposition from MARK M. JERVIS. Signed by Magistrate Judge Mario Garcia on 4/23/2021. (KAA) (Entered: 04/23/2021)
04/23/2021	48	MOTION for Protective Order, filed by Plaintiff MARK M. JERVIS. (JRB) (Entered: 04/23/2021)
04/26/2021	49	ENTRY ON PENDING MOTIONS - Mark Jervis's motion to appoint medical expert, dkt. 30 , is denied without prejudice as discussed in Part I above. Mr. Jervis's emergency motion for a Court order to cease and desist, dkt. 33 , is granted in part and denied in part consistent with Part II. Consistent with the Seventh Circuit's holding in MillerCoors LLC v. Anheuser-Busch Companies, LLC, this preliminary injunction shall be set forth in a separate Order without reference to any other document. Mr. Jervis's motion to preserve and provide evidence, dkt. 41 , is denied. Mr. Jervis's motion for order regarding hearing, dkt. 42 , is granted in part and denied in part consistent with Part IV. The clerk is directed to include two executed, but otherwise blank, subpoenas with Mr. Jervis's copy of this Entry. SEE ORDER. Signed by Judge Jane Magnus-Stinson on 4/26/2021. (Attachments: # 1 Subpoena 1, # 2 Subpoena 2) (KAA) (Entered: 04/26/2021)
04/26/2021	50	PRELIMINARY INJUNCTION - The motion for emergency order is therefore granted to the extent that the Court issues the following orders: 1) The defendants shall have through April 30, 2021, to notify the Court that Mr. Jervis's follow-up appointment with his cardiologist has been scheduled. 2) Within fourteen days following the follow-up appointment, the defendants shall file any treatment notes from that appointment and notify the Court that Mr. Jervis has been scheduled to meet with a doctor at his facility to discuss ongoing treatment. 3) On the first day of each month until the conclusion of the action, the Defendants shall notify the Court of any additional instructions or recommendations from the cardiologist and what actions the defendants have taken to carry them out. Signed by Judge Jane Magnus-Stinson on 4/26/2021.

		(KAA) (Entered: 04/26/2021)
04/27/2021	51	ENTRY DENYING MOTION FOR PROTECTIVE ORDER - denying 48 Motion for Protective Order. SEE ORDER. Signed by Judge Jane Magnus-Stinson on 4/27/2021. (KAA) (Entered: 04/27/2021)
04/28/2021	52	NOTICE to the Court, filed by Plaintiff MARK M. JERVIS (AAS) (Entered: 04/28/2021)
04/30/2021	53	NOTICE of Compliance concerning attempting to schedule follow up medical appointment , filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC, re 50 Order. (Shores, Sarah) Modified on 5/3/2021 - corrected title (RSF). (Entered: 04/30/2021)
05/03/2021	55	NOTICE of Filing <i>Ex-Parte Regarding Follow-Up Scheduled</i> by SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC (Shores, Sarah) (Entered: 05/03/2021)
05/13/2021	56	NOTICE to the Court, filed by Plaintiff MARK M. JERVIS (AAS) (Entered: 05/13/2021)
05/20/2021	57	NOTICE of Service of Responses, filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC, re 46 Discovery, 45 Request for Production of Documents. (Shores, Sarah) (Entered: 05/20/2021)
06/01/2021	58	NOTICE of Compliance with Court Order, filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC, re 50 Order. (Attachments: # 1 Exhibit A - Medical Records 5.13.21 (Redacted), # 2 Exhibit B - Medical Records 5.27.21 (Redacted)) (Shores, Sarah) (Entered: 06/01/2021)
06/02/2021	59	NOTICE to the Court, filed by Plaintiff MARK M. JERVIS (JRB) (Entered: 06/02/2021)
06/02/2021	60	MOTION to Compel Discovery, filed by Plaintiff MARK M. JERVIS. (Attachments: # 1 Exhibit)(JRB) (Entered: 06/02/2021)
06/08/2021	61	MOTION for Temporary Restraining Order and Preliminary Injunction, filed by Plaintiff MARK M. JERVIS. (JRB) (Entered: 06/08/2021)
06/08/2021	62	MOTION to Compel Defendants Compliance with Discovery Request, filed by Plaintiff MARK M. JERVIS. (JRB) (Entered: 06/08/2021)
06/08/2021	63	MOTION to Compel Defendants' Compliance to Discovery Requests, filed by Plaintiff MARK M. JERVIS. (AAS) (Entered: 06/08/2021)
06/08/2021	64	MOTION to Compel Answers to Interrogatories, filed by Plaintiff MARK M. JERVIS. (AAS) (Entered: 06/08/2021)
06/08/2021	65	AFFIDAVIT of Mark Jervis by MARK M. JERVIS. (Attachments: # 1 Exhibit) (AAS) (Entered: 06/08/2021)
06/10/2021	66	ENTRY DENYING MOTIONS TO COMPEL - Mr. Jervis's first motion to compel, dkt. 60 , is denied as moot because his subsequent motions acknowledge that the defendants ultimately responded to his production

		requests and interrogatories. The remaining motions to compel, dkt. 62 , 63 , and 64 , are denied as presented. SEE ORDER. Signed by Magistrate Judge Mario Garcia on 6/10/2021. (KAA) (Entered: 06/10/2021)
06/11/2021	67	ENTRY DIRECTING DEFENDANTS TO RESPOND TO MOTION FOR TEMPORARY RESTRAINING ORDER - The Court directs the defendants to respond to the motion for temporary restraining order, dkt. 61 , no later than June 17, 2021. See Order. Signed by Judge Jane Magnus-Stinson on 6/11/2021. (KAA) (Entered: 06/11/2021)
06/17/2021	68	RESPONSE in Opposition re 61 MOTION for Temporary Restraining Order MOTION for Preliminary Injunction , filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC. (Attachments: # 1 Exhibit A - Affidavit of Samuel Byrd, M.D, # 2 Exhibit B - Plaintiff's Medical Records (Redacted)) (Shores, Sarah) (Entered: 06/17/2021)
06/30/2021	69	MOTION to Appoint Counsel, filed by Plaintiff MARK M. JERVIS. (Attachments: # 1 Exhibit)(AAS) (Entered: 06/30/2021)
06/30/2021	70	Mail Returned as undeliverable - Transferred to ISF. 69 MOTION to Appoint Counsel sent to MARK M. JERVIS, WVCF. (AAS) (Entered: 06/30/2021)
07/01/2021	71	Address updated for Plaintiff MARK M. JERVIS from WABASH VALLEY - CF to PUTNAMVILLE - CF based on IDOC website. Docket 69 resent to Plaintiff MARK M. JERVIS at PUTNAMVILLE - CF. (TMC) (Entered: 07/01/2021)
07/01/2021	72	NOTICE <i>to the Court</i> , filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC, re 50 Order. (Attachments: # 1 Exhibit A - Medical Records (Redacted)) (Shores, Sarah) (Entered: 07/01/2021)
07/13/2021	73	MOTION <i>to Terminate Preliminary Injunction</i> , filed by Defendants SAMUEL J. BYRD, WEXFORD OF INDIANA, LLC. (Attachments: # 1 Text of Proposed Order)(Shores, Sarah) (Entered: 07/13/2021)
07/26/2021	74	NOTICE of Change of Address for MARK M. JERVIS, Putnamville CF. (AAS) (Entered: 07/26/2021)
07/26/2021	75	ENTRY DISCUSSING PRELIMINARY INJUNCTIVE RELIEF, GRANTING MOTION TO APPOINT COUNSEL, AND VACATING DEADLINES - The defendants' motion to terminate preliminary injunction, dkt. 73 , is granted. The preliminary injunction requiring the defendants to provide monthly updates of Mr. Jervis's treatment, dkt. 50 , is terminated. For the same reasons, Mr. Jervis's motion for temporary restraining order and preliminary injunction, dkt. 61 , is denied as moot. Mr. Jervis's motion to appoint counsel, dkt. 69 , is granted to the extent the Court will attempt to recruit counsel to assist Mr. Jervis for the remainder of the action. All pending deadlines are vacated. The Court requests that Magistrate Judge Garcia set this matter for a status conference and enter a revised pretrial schedule after recruited counsel has appeared. SEE ORDER. Copy to plaintiff via US Mail. Signed by Judge Jane Magnus-Stinson on 7/26/2021. (KAA) (Entered: 07/26/2021)

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